In the High Court of Punjab and Haryana at Chandigarh.

Civil Writ Petition No.9817 of 2007.

Date of decision:19.7.2007.

Samar Singh

...Petitioner.

Versus

Life Insurance Corporation of India and others.

...Respondents.

...

Coram: Hon'ble Mr. Justice K. S. Garewal.

Hon'ble Mr. Justice S. N. Aggarwal.

...

Present; Mr. J. P. Bhatt Advocate for the petitioner.

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Judgment.

S. N. Aggarwal, J.

Samer Singh petitioner had joined the post of Apprentice Development Officer in the Life Insurance Corporation of India on 18.4.1983. He started working as a Development Officer at Barwala under Panchkula Branch. Later on, he was transferred to Meham vide order dated 21.4.1986 (Annexure P-3). Village Lakhan Majra was also the area of his operation. He was issued show cause notice by the respondents on 28/30.9.1994 (Annexure P-4) with the allegations that he was absenting unauthorisedly from his headquarters for the last more than 90 days. He was asked to explain his position within 15 days. No response was received from the petitioner. He was removed from service vide order dated 5.12.1994

(Annexure P-5) on the ground that he had abandoned his post in terms of Regulation 39(4)(iii) of the Life Insurance Cooperation of India (Staff) Regulation, 1960 (in short the Regulations). The petitioner filed an appeal before respondent No.2 but the appeal was dismissed vide order dated 19.2.1996 (Annexure P-7). The petitioner filed the Memorial before the Chairman, Life Insurance Corporation, respondent No.1. It was also dismissed vide order dated 12.1.1999 (Annexure P-8).

The petitioner filed Civil Writ Petition No.18027 of 1997 in this Court challenging the aforesaid orders. It was dismissed by this Court vide order dated 5.12.1997 (Annexure P-13) for pursuing his case under the Industrial Disputes Act. The Government of India, however, declined to refer the matter to the Industrial Tribunal vide order dated 22.11.1999 (Annexure P-14). The petitioner filed Writ Petition in the Hon'ble Delhi High Court (CWP No.4791 of 2000) which was got dismissed as withdrawn by the petitioner on 19.3.2007 (Annexure P-15) with liberty to file a writ petition in this Court.

Hence, the present writ petition.

The submission of learned counsel for the petitioner was that he never absented from his service. He remained in the area of his operation and was always carrying out the business of the respondents and his services have been terminated without any reason and without hearing him.

These submissions have been considered.

The stand taken by the petitioner is falsified by the documents filed along with the writ petition. If the petitioner had been available at the place where he was posted, he would have received the letters sent to him by the respondents. It was not once or twice but every time when the letter

was sent to him, it was returned by the postal authorities with the report that addressee was not available and he was residing away and his address was not known. In the show cause notice itself, it was specifically stated that the letters sent to him on 24.5.1993, 25.2.1994, 4.4.1994 and 6.5.1994 were received back with the report quoted above. This clearly reveals that the petitioner was not available at the place where he was posted.

The petitioner remained absent from his place of posting from 24.5.1993 till the order of termination was passed against him on 5.12.1994 (Annexure P-5). If the petitioner had been working at the place of his posting he must have attended the office of his employer atleast once or twice in one month or so, but, in the present case, his whereabouts were now known atleast from 1.4.1994 onwards till the show cause notice was served on 28/30.9.1994 (Annexure P-4). Not only the letters were sent to him but even the letters were pasted on the notice board of Rohtak branch to which he was answerable. He failed to respond to the show cause notice which led to the passing of the order of removal from service on 5.12.1994. The petitioner did not contact his employer from 1.4.1994 onwards till 5.12.1994. Rather he filed revision only on 14.9.1995 (Annexure P-6). It is also surprising that letter was despatched by him from New Delhi on 14.9,.1995, as is evident from Annexure P-6.

If the petitioner had been present on the place of his posting, he could at least have visited the office atleast for getting the salary from 1.4.1994 to the date of his removal from service and till the filing of the revision on 14.9.1995.

The order dated 5.12.1994 passed by the respondent No.3 is detailed order in which reasons have been given that the petitioner was

absenting from service for more than 90 days from the place of his posting and it was violative of the provisions of Regulation 39(4)(iii) of the Regulations, 1960. In his appeal also it has been duly considered by respondent No.2 and he passed a speaking order on 19.2.1996 (Annexure P-7). Even the Memorial filed by the petitioner has been dismissed by the Chairman, Life Insurance Corporation of India by passing a detailed and self speaking order dated 12.1.999 (Annexure P-8).

For all these reasons, we reach at the conclusion that the petitioner was absenting from the place of his duty with effect from 14.1994 which was more than 90 days. It was a valid ground for the removal of the petitioner. Since the petitioner himself had failed to respond to the show cause notice and failed to participate in the proceedings, therefore, the respondents were justified in passing ex parte order of removal. The Appellate Authorities have also considered the appeals filed by the petitioner.

There is no illegality in the impugned orders.

No merit.

Dismissed.

(S. N. Aggarwal)
Judge

July 19,2007.
Jaggi

(K. S. Garewal)
Judge